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10/765,447	01/27/2004	Christian Bertin	04-10	8583

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EXAMINER
IDOWU, OLUGBENGA O

ART UNIT	PAPER NUMBER
2621	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/05/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>27 January 2004</u>.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-16</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-16</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on <u>27 January 2004</u> is/are: a)☒ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date <u>8/12//04</u>.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____ .

DETAILED ACTION

Specification

1.   The disclosure is objected to because of the following informalities: [0011], lines

1 –2 - -consists in - - should be replaced by "consists of", [0022] line 2 - - an - - should

be changed to "a", [0026], line 1 - - in - - should be changed to "of", [0027], line 1 - - in -

- should be changed to "of"

    Appropriate correction is required.

Claim Rejections - 35 USC § 102

2.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3.   Claim 1-5, 7 –10 and 13 – 16 are rejected under 35 U.S.C. 102(e) as being

anticipated by Carden, Patent #: 6 996 627.

As per **claim 1,** Carden discloses: a method of recording audiovisual contents

broadcast according to a Schedule (Fig. 1, the system is configured to periodically

deliver program information items 102 to a client computer 100, col. 3, line 67 – col. 4,

line 1), the method including: a step of selecting from an access terminal (Fig. 1, 100,

client computer) an audiovisual content to be recorded (the media items 114 are stored

on the media server 112·until requested by a user at the client computer, col. 4, lines 36

- 37), the content being associated with a broadcast date and time (the program

information server 104(Fig. 1) determines whether the expiration time identified in the

headline expiration data field 238 of the currently selected headline element 204(found

in Fig. 2, 202) is later than the present time, col. 9, lines 8 -12), and a step of the

access terminal receiving a record file(Fig. 2, 202) of the selected audiovisual content

(Fig. 4, 400, starting at a step 400, the client computer 100 initiates a request to the

program information server 104 for the most recent program information item 202, col.

8, lines 17 -19), said file containing information identifying the audiovisual content and

the scheduled date and time for broadcasting it (each of the program elements 202

includes a program identification data field 208. The program identification data field

208 contains a program identifier that uniquely identifies the program element 202, col.

6, lines 40 – 44, the expiration time identified in the headline expiration data field 238

(which is in 202) of the currently selected headline element 204 is later than the present

time, col. 9, lines 8 -12), and wherein the record file further includes the address of an

update server (Fig. 1, 104) for generating a request to update the record file sent by the

terminal to the update server(Further, the program elements 202 also include a media

item location data field 220. The media item location data field 220 identifies the location

of additional information that may be delivered to the client pursuant to a client request,

col. 6, lines 58 - 62).

The record file is referred to in Carden as Fig. 2, 202. 202 is initially in the client

computer 100. The update process or "receiving the record file" is described in Fig. 4

when the elements in 202 are updated.

As per **claim 2**, Carden discloses a method according to claim 1 of recording

audiovisual contents broadcast according to a schedule, the method including a step of

updating the record file in the event of modification of the date and/or time of the

broadcast, or cancellation of broadcasting a selected audiovisual content, or

substitution of some other audiovisual content (at the decision step 422, the program

information server 104 determines whether any changes have been made by the

content provider with respect to an of the program elements 202. If changes have been

made, the program information server 104 proceeds to a step 424(update step), col.

10, lines 3- 7).

As per **claim 3**, Carden discloses a method according to claim 1 of recording

audiovisual contents broadcast according to a schedule, wherein the update request

includes the address of the update server (the program elements 202 also include a

media item location data field 220. The meida item location data field 220 identifies the

location of additional information that may be delivered to the client pursuant to a client

request, col. 6, lines 58 - 62) and the identification information of the audiovisual

content (each of the program elements 202 includes a program identification data field

208. The program identification data field 208 contains a program identifier that

uniquely identifies the program element 202, col. 6, lines 40 – 44).

As per **claim 4**, Carden discloses a method according to claim 1 of recording

audiovisual contents broadcast according to a schedule, wherein the request is an

HTTP request (The meida item location data field 220 identifies the location of

additional information that may be delivered to the client pursuant to a client request…

data field 220 contains an uniform resource locator (URL), col. 6, lines 58 - 64).

As per **claim 5**, Carden discloses a method according to claim 1 of recording

audiovisual contents broadcast according to a schedule, wherein the terminal sends

the request to update the record file periodically up to the date and time scheduled for

broadcasting the selected audiovisual content (Fig. 4, 400, starting at a step 400, the

client computer 100 initiates a request to the program information server 104 for the

most recent program information item 202, col. 8, lines 17 -19).

As per **claim 7**, Carden discloses a method according to claim 1 of recording

audiovisual contents broadcast according to a schedule, wherein the record file

includes a field marked by a markup and defining the address of the update server

(Further, the program elements 202 also include a media item location data field 220.

The media item location data field 220 identifies the location of additional information that may be delivered to the client pursuant to a client request, col. 6, lines 58 - 62).

As per **claim 8**, Carden discloses a method according to claim 1 of recording audiovisual contents broadcast according to a schedule, wherein the record file includes at least one field marked by a markup and defining information identifying the corresponding audiovisual content associated with data describing said content (each of the program elements 202 includes a program identification data field 208. The program identification data field 208 contains a program identifier that uniquely identifies the program element 202, col. 6, lines 40 – 44).

As per **claim 9**, Carden discloses a method according to claim 1 of recording audiovisual contents broadcast according to a schedule, wherein the record file includes one field marked by a markup and defining, for a given audiovisual content in the same file, a content identifier associated with a content already recorded in the storage means of the access terminal (the program data structure 200 contains some of the program information items 102 as well as identifies the location of other program information items 102, col. 6, lines 19 - 22).

As per **claim 10**, Carden discloses a method according to claim 1 of recording audiovisual contents broadcast according to a schedule, wherein the syntax of files exchanged between the access terminal and the server is defined by an unique data

structure schema, in particular an XML schema (the program information items 102

may include the following types of data formats: text animation... and Extensible

markup Language (XML), col. 4, lines 9 -14).

As per **claim 13**, Carden discloses a method according to claim 1 of recording

audiovisual contents broadcast according to a schedule, wherein the request includes

the reference of a user for statistical purposes (optionally, the program selection server

118 can request the user to provide additional information that is to be associated with

one or more of the program elements, col. 12, lines 64-67).

As per **claim 14**, Carden discloses a system for recording audiovisual contents

broadcast in accordance with a schedule and adapted to execute a method according

to claim 1, the system including at least one access terminal (Fig. 1, 100, client

computer) comprising means for selecting an audiovisual content to be recorded (the

media items 114 are stored on the media server 112 until requested by a user at the

client computer, col. 4, lines 36 - 37) associated with a broadcast date and time (the

program information server 104(Fig. 1) determines whether the expiration time

identified in the headline expiration data field 238 of the currently selected headline

element 204 is later than the present time, col. 9, lines 8 -12), said access terminal

including means for receiving a record file of the selected audiovisual content(Fig. 1,

100, client computer), said file containing information identifying the audiovisual

content and the scheduled date and time for broadcasting it (each of the program

elements 202 includes a program identification data field 208. The program

identification data field 208 contains a program identifier that uniquely identifies the

program element 202, col. 6, lines 40 – 44, the expiration time identified in the

headline expiration data field 238 (which is in 202) of the currently selected headline

element 204 is later than the present time, col. 9, lines 8 -12), and

wherein the record file further includes the address of an update server for

generating a request to update the record file sent by the terminal to the

update server (Further, the program elements 202 also include a media item location

data field 220. The media item location data field 220 identifies the location of

additional information that may be delivered to the client pursuant to a client request,

col. 6, lines 58 - 62).

As per **claim 15**, Carden discloses an update server adapted to execute a method

according to claim 1 and including means for updating the record file (the program

information server 104(this updates the files) performs a loop of steps with respect to

each of the program elements 202, col. 2, lines 32 - 34)

As per **claim 16**, Carden discloses an access terminal adapted to execute a method

according to claim 1 and including means for selecting an audiovisual content to be

recorded associated with a broadcast date and time (the program information server

104(Fig. 1) determines whether the expiration time identified in the headline expiration

data field 238 of the currently selected headline element 204 is later than the present

time, col. 9, lines 8 -12), means for receiving a record file of the selected audiovisual

content (Fig. 1, 100, client computer), said file containing information identifying the

audiovisual content and the scheduled date and time for broadcasting it (each of the

program elements 202 includes a program identification data field 208. The program

identification data field 208 contains a program identifier that uniquely identifies the

program element 202, col. 6, lines 40 – 44, the expiration time identified in the headline

expiration data field 238 (which is in 202) of the currently selected headline element

204 is later than the present time, col. 9, lines 8 -12), and further including the address

of an update server for generating a request to update the record file sent by the

terminal to the update server (Further, the program elements 202 also include a media

item location data field 220. The media item location data field 220 identifies the

location of additional information that may be delivered to the client pursuant to a client

request, col. 6, lines 58 - 62).

Claim Rejections - 35 USC § 103

4.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

5.   Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Carden in

view of Ikeda, application #:10/314 040.

6.   The factual inquiries set forth in *Graham* v. *John Deere Co.*, 383 U.S. 1, 148

USPQ 459 (1966), that are applied for establishing a background for determining

obviousness under 35 U.S.C. 103(a) are summarized as follows:

1.   Determining the scope and contents of the prior art.
2.   Ascertaining the differences between the prior art and the claims at issue.
3.   Resolving the level of ordinary skill in the pertinent art.
4.   Considering objective evidence present in the application indicating
        obviousness or nonobviousness.

As per **claim 6,** Carden teaches a system that updates the information of a preset

recording based on changes made from the program provider. Carden does not teach a

system that updates the recorder frequently as the program to be recorded approaches.

In a relevant field of endeavor, Ikeda teaches a system that records a program based

on pre-selected time slots using a DVR. Ikeda also teaches: wherein, during the

selection step a single audiovisual content is selected (preselected program, [0095], line

2), and wherein the terminal sends the request to update the record file increasingly

often as the date and time for recording the selected audiovisual content approaches (at

the program start time of a preselected program to be recorded or the current time

approaches a specified time(for example, one minute before the program start

time)[0095],... server 40 modifies the program start time information in the program

preselection information stored in database 41, [0097], when the broadcasting opening

time of the preselected program to be recorded closes in, the server 40 outputs a

recording start command to the terminal device 10 through the network based on the

accepted program preselection information to cause recording of the program to be

started,[103],).

It would have been obvious to one of ordinary skill in the art at the time of the invention
to combine the system, in Carden, that just updates the recording time once with Ikeda
that updates the recording time as you get close to the broadcast time. In this case,
being close to the start time is interpreted as frequent. This improves the accuracy of
recording relevant information and saves space on the recording device.

7.   Claims 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable
over Carden in view of Yamato, publication #: 10/091 441.

As per **claim 11**:

Carden teaches a system that records from an EPG which is updated if there is any
change from the program provider and a step of receiving a record request to be sent to
a predetermined server. Carden also teaches a system that has a file that contains the
address of a specific server. Carden does not teach the system whereby there is a
preliminary step of selecting the program from a collection of similar topics and
automatically recording.

In a relevant field of endeavor, Yamato teaches a system that records from an EPG.
Yamato also teaches: the method including a preliminary step of selecting a plurality of
contents having a common topic (In addition, the device 100 searches the data of the
EPG for user's favorite programs by using keywords or types which are established in
advance by the user, [0169], lines 6 -9), and a step of receiving a record request file

from which the access terminal generates a record-request request designed to be sent

to a predetermined server for executing automatically the selection step (extracts the

searched programs, and automatically records the extracted programs, [0169], lines 9 -

10).

It would have obvious to one of ordinary skill in the art at the time of the invention to

include a preliminary selection step like the one in Yamato in Carden for the

advantages. The system of grouping similar programs provides the viewer with an

intuitive and informative display; it also creates an avenue for recording a variety of

shows to be watched by the viewer.

As per **claim 12**, Carden further teaches wherein the record request file includes the

address of said predetermined server for generating the record-request request

(Carden; Further, the program elements 202 also include a media item location data

field 220. The media item location data field 220 identifies the location of additional

information that may be delivered to the client pursuant to a client request, col. 6, lines

58 - 62).

Conclusion

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Olugbenga O. Idowu whose telephone number is 571

270 1450. The examiner can normally be reached on Monday to Friday, 7am -5pm Est.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Patrick Edourd can be reached on 571 272 7603. The fax phone number

for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

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Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

USPTO Customer Service Representative or access to the automated information

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O.I. 11/30/06

PATRICK N. EDOUARD
SUPERVISORY PATENT EXAMINER